



**PUBLIC HEARING and SPECIAL MEETING**

**of the  
BOARD OF ADJUSTMENT  
AGENDA  
July 2, 2019**

**BOA PUBLIC HEARING**

THE TOWN OF MESILLA BOARD OF ADJUSTMENT, WILL HOLD A PUBLIC HEARING ON **TUESDAY, JULY 2, 2019 AT 10:00 A.M.** IN THE BOARD ROOM OF THE MESILLA TOWN HALL, 2231 AVENIDA DE MESILLA TO OBTAIN PUBLIC INPUT ON THE FOLLOWING:

**V19-002:** Submitted by Chris Schaefer for Paul Miller; a request for a Variance to Chapter 18.65 (Signs) of the Mesilla Town Code to allow an off premises directory sign on a commercial property at the SE corner of Calle de Alvarez and Avenida de Mesilla (address to be assigned). Zoned: General Commercial (C)

*Staff gave a brief presentation of the case, explaining that the requested sign was originally approved by the PZHAC on May 20, 2019. The PZHAC determined that although the proposed sign could be considered a "Development Identification Sign" which is allowed by the Code, it would actually be more of a "Directory Sign" because of its content which will actually list the businesses that are on other properties in the Mercado area. The PZHAC determined that the proposed sign is needed to promote the Mercado area and voted to recommend approval of the request to the BOT. The BOT voted to have the case heard as a variance by the Board of Adjustments (BOA) since the proposed sign appears to be a directory sign that is normally not allowed by the Code since the businesses to be listed are on other premises (Section 18.65.165(C) of the MTC). This is the reason that this request is being brought before the BOA. Staff also mentioned that the Sign Code is currently in the process of being amended.*

*BOA Chair Arzabal stated that the Board of Trustees never took a vote on the case when it was brought before them, but a vote was never taken to approve or deny the case, rather it was recommended that the case be sent to the BOA as a variance request. Chair Arzabal also asked if there were any negative responses from notified property owners. There were no negative responses, according to Staff.*

*A vote was taken to open the Public Hearing*

***Input from the Public***

***Susan Krueger-resident***

*Stated that the Variance section of the MTC does not allow the BOA to permit any use that is prohibited by the Code. She also stated that the both the PZHAC and the BOT identified the issue as being a specific problem with the Sign Code, and that the BOA does not have the authority to override the Code. The BOA should instead send the original case back to the BOT, and the BOT should change the Sign Code if there is a problem with the Sign Code. The BOA should state that this is an issue of economic development that should be acted on now.*

***Chris Shaefer-applicant***

*Spoke on behalf of the application. Read a letter of support from Mitch Alamag, neighboring property owner (Rokoko Art Studio) in the Mercado, that was written in January 2019 in support of the original Code amendment request. In the letter, Mr. Alamag stated that the location of his business in the Mercado was a mistake in that the business was hidden in the Mercado area with no visibility from Highway 28, and business suffered. Signage Highway 28 would be very beneficial for businesses located in the Mercado. R. Schaefer stated that this sign would serve all businesses in the Mercado, not just one.*

*Stephan Schaefer*

*Addressed Ms. Krueger's concerns and stated that an amendment to the Sign Code would have been preferable, but that the BOT has refused to take action on a requested amendment to the Sign Code. He believes that strict interpretation of the Code has created an undue hardship on properties in the Mercado due to their location in the Mercado resulting from strict interpretation of the Code. He called attention to 18.85.010 which states that a variance may be granted from the provisions of this title when strict enforcement of the Code causes an unnecessary hardship on businesses in the Mercado due to their location in the Mercado.*

*As far as Ms. Krueger's claim that a variance cannot be used to allow a prohibited use, the applicant is not asking for any prohibited use of the land, but rather, for an adjustment of the hardship caused by the Code on businesses in the Mercado. He believes that the Code is referring to prohibited land uses. If it weren't for the content of the sign, the sign would normally be approved.*

*There was no further input.*

**V19-003: Submitted by Robert Reynolds, a request for a Variance to Chapter 18.35 (Historical Residential Zone) to allow the construction of a carport within the required side setbacks of three feet for a property at 2415 Calle de Parian. Zoned: Historical Residential (HR)  
BOA Chair Arzabal gave a brief presentation of the case and opened the floor to public input.**

*There was no public input and the public hearing was closed.*

## **BOA SPECIAL MEETING**

**THE TOWN OF MESILLA BOARD OF ADJUSTMENT, WILL HOLD A SPECIAL MEETING ON **TUESDAY, JULY 2, 2019 IMMEDIATELY AFTER THE PUBLIC HEARING** IN THE BOARD ROOM OF THE MESILLA TOWN HALL, 2231 AVENIDA DE MESILLA.**

### **PLEDGE OF ALLEGIANCE**

### **ROLL CALL AND DETERMINATION OF A QUORUM**

*All BOA members were present, a quorum was present.*

### **BOARD OF ADJUSTMENT BUSINESS**

#### **Variance Decisions:**

**V19-002: Submitted by Chris Schaefer for Paul Miller; a request for a Variance to Chapter 18.65 (Signs) of the Mesilla Town Code to allow an off premises directory sign on a commercial property at the SE corner of Calle de Alvarez and Avenida de Mesilla (address to be assigned). Zoned: General Commercial (C)  
BOA chair Arzabal requested comments from the BOA.**

*BOA member Alvillar referenced page 11 of a letter from Mr. Schaefer stated that the BOT denied the case. According to BOA Chair Arzabal, the BOT never denied the case. This was further supported by staff, who had checked the BOT minutes prior to the BOA meeting. BOA member Alvillar still remained adamant that the BOT had denied the case and that this ruling could not be overturned. BOA member Hernandez stated that he had been at the meeting and that the BOT voted to send the case to the BOA.*

*BOA member Hernandez made a motion to approve the case, seconded by BOA Chair Arzabal. BOA member Hernandez voted to approve the case. BOA member Alvillar vote to deny the case. BOA Chair Arzabal voted to break the tie and approve the case. The case was approved and BOA Chair Arzabal instructed staff to bring the case back before the BOT at their next meeting.*

**V19-003: Submitted by Robert Reynolds, a request for a Variance to Chapter 18.35 (Historical Residential Zone) to allow the construction of a carport within the required side setbacks of three feet for a property at 2415 Calle de Parian. Zoned: Historical Residential (HR)  
Staff stated that of the ten letters sent to notified property owners, there were two negative responses. One was from Yolanda Lucero who is a PZHAC Commissioner, who was out of Town and notified staff by phone. She did not**

*have a particular problem with this case, she was generally against all “zero” lot line construction. The other response was from Davie Salas, the neighbor immediately to the west. He too was out of town and expressed his concerns about the variance to staff by phone. He was concerned that, since the northern part of the applicant’s driveway extended about two feet onto his property, that this variance might be detrimental to his property. It was eventually determined that the area of encroachment would not be affected by the proposed carport, since the carport would be located further up the driveway. The applicant was also only asking for a variance to put the uprights for the carport one and one-half feet from the property line, not for a “zero” lot line.*

*Along with concerns about encroachment onto the neighboring property, drainage from the structure was also a concern.*

*The applicant’s wife was allowed to speak and explained the situation regarding the encroachment on the the neighboring property and the fact that since the carport would stop short of the encroachment and would not be built on the property line, there would be no negative effects on the neighboring property.*

*Staff stated that the what was being approved here was just the concept that the carport could be built within the required setbacks, the actual carport would still have to be approved by the PZHAC and the BOT.*

*There were no other issues. BOA Member Hernandez made a motion to approve V19-003, seconded by BOA Member Alvillar, and approved by a unanimous vote with the following condition:*

- *The carport must be approved by the PZHAC, the BOT, and CID at a date to be determined.*

*The meeting was adjourned at 10:53 am.*

#### **NOTICE**

If you need an accommodation for a disability to enable you to fully participate in the hearing or meeting, please contact us at 524-3262 at least 48 hours prior to the meeting.

Posted on 6/17/19 at the following locations: Town Hall - 2231 Avenida de Mesilla; Public Safety Building - 2670 Calle de Parian; Mesilla Community Center - 2251 Calle de Santiago; Shorty’s Food Mart - 2290 Avenida de Mesilla; Ristramn Chile Co. - 2531 Avenida de Mesilla and the U.S. Post Office - 2253 Calle de Parian.